IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2899 OF 2006

Dhiraj Kumar Agarwal .. Petitioner

V/s

Union of India & Ors. .. Respondents

Mr.Jai Chinai with Ms. Sonal i/b Roys Law Firm for the Petitioner.

Mr.A.S. Rao for Respondents No.1 and 2.

Mr.K.R. Shriram for Respondent No.7.

Mr.S.B. Sharma for Respondent No.8.

CORAM : H.L. GOKHALE & J.P. DEVADHAR, JJ.

DATE : 30th November 2006

P.C. :

1. Heard the counsel for the parties.

2. The Petitioner claims to have imported a large quantity of Denim Fabric through one container belonging to Respondent No.7. The container is lying in the area of Respondent No.8 Warehousing Corporation. The consignment was brought in the Jawaharlal Nehru Port Trust at Nhava Sheva in November 2005 and a Bill of Entry had been lodged by Respondent No.5 who is a Custom

House Agent and the Bill of Entry shows the name of Respondent No.6 as the importer. Respondent No.6 has not come forward to claim the goods. The case of the Petitioner is that though the name of Respondent No.6 is shown in the Bill of Entry, it is he who is the real importer and has in fact paid the import duty in advance to the tune of Rs.35 lakhs.

3. The petition prays that the goods be released in favour of the Petitioner.

4. Mr.Rao for Respondents No.1 and 2 states that certainly this cannot be done because the Bill of Entry is not in the name of the Petitioner. This being the position, all that Respondents No.1 and 2 will have to do is to proceed in accordance with the law and, after issuing appropriate notices, if required, to confiscate the consignment and take further steps. Respondent No.7 and Respondent No.8 have their claim towards container charges and warehousing charges respectively. It is for them to file their claim with the Authorities. As and when Respondents No.1 and 2 auction the goods, if required, they will take these claims into consideration while notifying the auction price. There is nothing other than this which we can do in the present matter.

5. Mr.Rao states that the investigation by the Special Investigation and Intelligence Branch is going on and thereafter necessary steps will be taken.

Petition disposed of.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR J.)